

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl.Misc.No.30472-M of 2004
and Crl.Revision No.2312 of 2004

DATE OF DECISION: OCTOBER 18, 2006

Paramjit Singh and another

...PETITIONERS

VERSUS

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.Kanwaljit Singh, Advocate,
for the petitioners.
Mr.N.S.Gill, AAG, Punjab.

...

This order shall dispose of Crl.Misc.No.30472-M of 2004 filed by the petitioners for quashing of FIR No.2 dated 10.1.1989 under Sections 5(1) C&D, 5(2) 47 of the Prevention of Corruption Act and Sections 465,467,468,471,201 and 120-B IPC, registered at Police Station Civil Lines, Patiala as well as Criminal Revision No.2312 of 2004 for setting the order dated 14.7.2004 passed by the Special Judge, Patiala, whereby the charge has been framed against the petitioners.

2. The brief facts of the case are that both the petitioners were working as Sub Divisional Clerk and Clerk, respectively under one Shri Satnam Singh Sahni, SDO, in Sub Division, PWD(B&R), Patiala. On 10.1.1989, Inspector Satya Nand, Vigilance Bureau Flying Squad, Patiala lodged the aforesaid FIR alleging therein that Satnam Singh Sahni, SDE in connivance with the petitioners prepared forged vouchers of stocks. It was alleged that said Satnam Singh Sahni along with the

petitioners embezzled an amount of Rs.17383.20 between April, 1984 to November, 1984. In the year 2004, the petitioners filed the instant petition for quashing of the aforesaid FIR on the ground that the incident pertained to the year 1984 and the FIR has been lodged in the year 1989. Though the challan was presented, but till date of filing of the petition, charges were not framed against the petitioners. However, during the pendency of the petition, the charge has been framed against the petitioners vide order dated 14.7.2004 passed by the Special Judge, Patiala. Therefore, the petitioners have filed Crl.Revision No.2312 of 2004 for setting aside the charge also.

3. It is the case of the petitioners that from the bare reading of the FIR, the only allegation against the petitioners is that they had conspired along with Satnam Singh Sahni in preparing some vouchers which stood destroyed. The petitioners were not the Drawing and Disbursing Officers and the said duty was being performed by Satnam Singh Sahni, co-accused. In view of this, the petitioners could neither make the payment nor destroyed the vouchers. It is further the case of the petitioners that the main accused Satnam Singh Sahni had filed Crl.Misc.No.3911-M of 1991 in this Court for quashing of the aforesaid FIR on the ground of limitation. The said petition has been allowed by this Court vide order dated September 25, 2002 and the FIR and the consequent proceedings were quashed only qua the said accused.

4. Counsel for the petitioners contends that once the FIR against the main accused has been quashed on the ground of limitation, on the similar ground, the FIR and the consequent proceedings against the petitioners are also liable to be quashed.

5. I have heard the counsel for the parties and perused the order dated September 25, 2002 passed by this Court in Crl.Misc.No.3911-M of 1991, whereby the petition filed by Satnam Singh Sahni has been allowed and the FIR has been quashed only on the ground of limitation. While quashing the impugned FIR, this Court has observed as under:-

“After hearing the learned counsel for the parties, I find that the embezzlement is alleged to have taken place between April, 1984 to November, 1984. The alleged embezzlement came to the knowledge of the State in the year 1986. Even thereafter, there is a delay of four years. Hence, I find that there is a delay of four years in lodging the FIR. In Criminal Misc.2829-M of 1989 “Balraj Singh Versus State of Punjab” there was a delay of about three years and on this ground, the FIR was quashed by this court. Moreover, now a period of more than 18 years has elapsed since the commission of the offence. Obviously, after a gap of so many years, the witnesses will not remember the entire incident and the manner in which the embezzlement had taken place. It was incumbent upon the prosecution that the trial of the case should be got conducted speedily. A lot of time has been lost in investigating the case.

Learned State counsel has relied upon Andhra Pradesh Versus P.V.Pavithran, AIR 1990 S.C. 1266 to contend that delay is not a ground for quashing the FIR.

The right of speedy trial was recognised by the Hon'ble Supreme Court in State of Punjab Versus Kailash Nath, A.I.R. 1989 S.C. 558 wherein their lordship observed as under:-

“Lastly, it was urged by learned counsel for the respondents in these appeals that on the same principle on which Criminal Appeal No.40 of 1987 in the matter of Des Raj Singhal was dismissed these appeals also deserve to be dismissed. So far as this submission is concerned, we find substance as regard the appeal, against Kailash Nath. The First Information Report in this case was lodged on 27th August, 1985, that is, after about six years of the accrual of the cause of action or taking place of the events which took place in 1979 and after about three years even from 31st October, 1982 when the respondent retired from service. Now in 1988 it would be pursuing a stale matter. In this view of the matter, we are of the opinion that the order of the High Court quashing the First Information Report as against Kailash Nath, respondent in Criminal Appeal No.422 of 1988, deserves to be maintained though on a different ground.”

In view of the above observations of the Apex Court in State of Punjab Versus Kailash Nath (supra) and in view of the fact that more than 18 years have elapsed since the commission of the offence, I accept the revision and quash FIR No.2 dated 10.1.1999 registered at Police Station Civil Lines, Patiala. All consequent proceedings undertaken in pursuance to the lodging of the FIR are also hereby quashed qua the petitioner only.”

6. The above-said order passed by this Court has become final as undisputedly no appeal has been filed against the same. Counsel for the respondent-State has also not disputed the fact that Satnam Singh Sahni was the main accused. The allegations against the petitioners are that they had conspired with the main accused Satnam Singh Sahni and misappropriated an amount of Rs.17,383.20.

7. In view of this factual position, I am of the opinion that the aforesaid FIR and the consequential proceedings arising therefrom are liable to be quashed against the petitioners on the same ground. In Central Bureau of Investigation Versus Akhilesh Singh, 2005(1) RCR (Criminal) 308, the Supreme Court has observed that once the main accused, who is alleged to have hatched the conspiracy and who had the motive to kill the deceased was discharged, and when the matter had attained finality, the learned Single Judge was fully justified in holding that no purpose would be served in further proceeding with the case against the other accused.

8. In this case, when the FIR against the main accused Satnam Singh Sahni has been quashed on the ground of limitation, in my opinion, no useful purpose will be served in further proceeding with the case as the FIR in case of the petitioners will also be deemed to have been lodged after the expiry of limitation in view of the decision given by this Court with regard to the same FIR.

9. Hence, both these petitions are allowed and FIR No.2 dated 10.1.1989 under Sections 5(1) C&D, 5(2) 47 of the Prevention of Corruption Act and Sections 465,467,468,471,201 and 120-B IPC, registered at Police Station Civil Lines, Patiala and all the subsequent proceedings, including the order dated 14.7.2004, whereby charge has been

framed against the petitioners, are quashed and the petitioners are ordered to be discharged.

October 18, 2006
vkg

(SATISH KUMAR MITTAL)
JUDGE